

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 684-A
Case No. 94-1M/89-34C
(PUD Modification @ 1331 L Street, N.W.)
November 14, 1994

Pursuant to a notice, a public hearing of the Zoning Commission for the District of Columbia was held on June 27, 1994. At that hearing session, the Zoning Commission considered an application from Square 247 Associates Limited Partnership for modification to a previously approved planned unit development (PUD). The public hearing was conducted in accordance with the provisions of 11 DCMR 3022.

FINDINGS OF FACT

1. On February 11, 1991 and by Z.C. Order No. 684, the Zoning Commission for the District of Columbia granted approval for an application from Square 247 Associates for a mixed-use PUD and related change of zoning from HR/SP-2 to C-4 for Lot 96 (formerly Lots 71, 72, 86, 88, 89, 864 and 866) in Square 247.
2. The PUD site is located at 1331 L Street, N.W. It measures 18,456.17 square feet, and is bounded by 13th, 14th and L Streets, and Massachusetts Avenue, N.W. It is presently improved with and used as a surface parking lot.
3. The approved PUD project consisted of a commercial building with general office and some ground floor retail uses. The PUD had a lot occupancy of 98.7 percent, a floor area ratio (FAR) of 9.25, a height of 110 feet and a minimum of 94 parking spaces. Additionally, the approval was subject to 16 guidelines, conditions and standards.
4. This modification application, which was filed on February 14, 1994, proposed to modify Condition Nos. 6a and 11 of Z.C. Order No. 684 and add a new Condition No. 12. The application also requested that the original Condition Nos. 12 through 16 would be renumbered as Condition Nos. 13 through 17. The record in the prior proceeding was made a part of the record in the modification application.
5. Condition No. 6(a) of the current PUD order (Z.C. Order No. 684) provides for the following:

"Housing: Funds in the amount of \$3,062,000 to enable the construction of 209 housing units as part of the Peabody PUD at 5th and I Streets, N.W., within Advisory Neighborhood Commission (ANC) 2C (Square 516). The applicant shall provide the \$3,062,000 amount to the East End Limited Partnership, the developer of the Peabody PUD site, upon the closing of the HUD insured construction loan."

6. Condition No. 11 of the PUD approval requires the following:

"The applicant shall be entitled to receive a building permit when an opinion letter is presented to the Zoning Administrator with a copy to the Zoning Commission that the following have been performed:

- (a) The closing of the construction loan on the Peabody project has occurred;
- (b) The funds in cash and letters of credit discussed herein were posted by the applicant, in accordance with the agreement between the parties;
- (c) That the completion bond and/or the letters of credit required by HUD to assure the construction of the project is in place."

7. The instant application requests modification of Condition Nos. 6A and 11, as cited above.

8. The instant application proposes that Condition No. 6(a) be revised to read as follows:

"Housing: Funds in the amount of \$3,000,000 to enable the construction of housing and other facilities for 200 men and women as part of the Salvation Army PUD at 1850 New York Avenue, N.E. (Zoning Commission Order No. 744).

9. The instant application proposes that Condition No. 11 be revised to read as follows:

"The applicant shall be entitled to receive a building permit when an opinion letter is presented to the Zoning Administrator, with a copy to the Zoning Commission, that the funds discussed herein had been disbursed to the Salvation Army."

10. The application further proposes that a new condition be added as Condition No. 12, to read as follows:

"The applicant agrees to work with ANC 2F through its specifically designated subcommittee to identify and develop mutually

agreeable sites for the expenditure of \$500,000 for housing within ANC 2F. Applicant will seek approval of ANC 2F for properties to be acquired. Applicant shall certify to the Zoning Administrator that these funds have been expended prior to the issuance of the building permit for the PUD project."

11. The substance of the other conditions in Z.C. Order No. 684 will remain unchanged, although some would be renumbered to reflect the changes made by this order. No change to the use, height or bulk of the building as approved by the Zoning Commission was requested. The building would contain no residential uses.
12. The only change requested as part of this modification is a substitution of the off-site residential amenity associated with the PUD (the 5th and I Streets PUD being replaced by the Salvation Army PUD and housing within ANC 2F).
13. At the public hearing and through statements submitted to the record of the case, the applicant and his development team testified that the Peabody project cannot and will not proceed and can therefore no longer meet the residential requirement under Z.C. Order No. 684. The evidence indicated that the land on which the Peabody project was to be developed is owned by the District of Columbia and was to be leased to the developer under a current housing development program. Evidence of termination of the project by the District of Columbia was submitted as an exhibit and was contained in a memorandum dated March 14, 1994, in which the Director of the Department of Housing and Community Development advised the Zoning Commission that the District had terminated its relationship with the developer.
14. In light of the termination by the District of Columbia of its agreement with the Peabody project developer, and because the Zoning Commission's approval of the subject PUD was specifically conditioned upon the construction of the Peabody project on the 5th and I Streets site to be leased from the District of Columbia, the Zoning Commission must amend Condition 6(a) and 11 in order for the subject PUD to proceed to construction.
15. The applicant was required by the conditions of the original PUD approval to provide funding for the specific project at 5th and I Streets, N.W. The applicant posted the \$3,062,000 required under the order in the Spring of 1991. However, the developer never closed on a construction loan and the completion bond which would have been required by HUD was never secured.

16. Evidence was introduced that the applicant determined that the \$3,062,000 contribution to the project was not a sufficient contribution of equity to a project with an estimated cost of \$18 to \$20 million to enable that project to proceed. The equity to be provided was approximately 15 to 17 percent of the total project cost.
17. The applicant testified that its representatives reviewed potential and proposed developments in and near the Downtown area to locate another residential project to which a subsidy could be directed. Applicant's review indicated that there is no alternative residential project now in existence which has advanced to the point that its feasibility could be confirmed and for which a commitment to advance funds would have some likelihood of actually producing housing.
18. Applicant testified that even if a residential project in or near Downtown could be located, the level of the financial commitment which can be provided is not likely to be sufficient to make the project feasible. Testimony noted that financing an apartment project in the 1990s requires a substantially greater degree of capital than was previously the case. Applicant testified that the Peabody project at 5th and I Streets could no longer proceed even with the applicant's contribution having been posted and other government assistance committed in the form of write-downs and other subsidies. The size of the applicant's contribution is a level of capital assistance which is too small to underwrite an apartment development of any significant size in or near the Downtown area.
19. A representative of the Salvation Army testified about its project at 1850 New York Avenue, N.E., which was approved as a PUD by the Z.C. Order No. 744, dated September 13, 1993. The representative stated that the Salvation Army PUD is comprised of three buildings, a 45,000 square foot community-based residential service center, a 10,000 square foot warehouse and a 3,000 square foot auditorium/chapel. Evidence was that the residential component of the project will provide 190 beds in a dormitory arrangement and 20 single-room occupancy efficiency-type units.
20. The representative also testified that the cost of construction of the Salvation Army project is estimated at approximately \$7.1 million. He added that the Salvation Army has in hand approximately \$3.6 million to construct that project. He testified that the \$3,000,000 contribution from the applicant in this case would enable the Salvation Army to proceed with construction of the PUD at 1850 New York Avenue, N.E.

21. The representative of the Salvation Army added that the construction of the project on New York Avenue will provide substantial benefits to the District of Columbia. According to his testimony, the project not only provides housing but also contains a social service component to provide for persons who are recovering from drug and alcohol dependency. Moreover, he noted that the Salvation Army receives no funds from the District government for the operation of the program and that the Salvation Army estimates that it will spend \$18,000 annually to house and service one person in one bed for one year. He added that these services are therefore worth \$3.7 million to the District of Columbia during the first full year of operation. He mentioned that the D.C. Department of Human Services budgets \$87,000 a year to deliver one bed of rehabilitation and treatment for chemically dependent people in the District, or the equivalent of more than \$18 million per year for the services otherwise being provided by the Salvation Army.
22. The applicant's further testimony presented at the public hearing and through exhibits submitted into the record of the case, stated the following:
 - a. The subject site is zoned C-4. There is existing C-4 zoning to the west of the subject site at the corner of 14th and L Streets, to the south of the subject site along the south side of L Street between 13th and 14th Streets and to the east of the subject site at the corner of 13th and L Streets.
 - b. The 110-foot height for the project is in many cases less than the existing and approved height of other buildings in the area. Buildings at 1300 L Street, 1330 L Street, One Franklin Square and 1101 14th Street are 130 feet in height and the building at 1301 L Street, not yet constructed, has been approved with a height of 130 feet.
 - c. The approved 9.25 FAR is also consistent with the existing and approved density in the area. The buildings at 1300 L Street, 1330 L Street, and 1101 14th Street are existing buildings with an FAR of 10.0. The building to be constructed at 1301 L Street was approved as part of a PUD with a maximum FAR of 9.74.
 - d. The PUD, as it is proposed to be modified, meets the requirements of Chapter 24 of the D.C. Municipal Regulations. The project is a well-planned office building with a small amount of service retail. The project has an attractive design, as previously found by the Commission. The design is sensitive to environmental

protection and energy conservation. The public health, safety and welfare is adequately protected by the PUD and the PUD is in harmony with the intent and purposes of the Zoning Regulations.

- e. The subject project includes a combination of both on-site and off-site amenities and benefits which will result from approval and construction of the project and which are superior to what could be developed as a matter of right on the site. They are as follows:
 - i. A well-designed commercial building in the Franklin Square area.
 - ii. Landscaping and streetscape improvements that exceed the normal streetscape guidelines.
 - iii. Traffic circulation improvements by way of an additional 2.5 feet of space to permit the public alley east of the site to have an effective operating width of 20 feet.
 - iv. Best efforts to utilize certified minority business enterprises for a minimum of 35 percent of contracted development costs.
 - v. Best efforts to utilize D.C. residents for at least 51 percent of the jobs to be created by way of a First Source Employment Program through the Department of Employment Services.
 - vi. Increased real estate tax revenues as a result of additional construction on the site.
 - vii. Off-site housing in the vicinity of the site by way of the commitment to spend \$500,000 for housing within the boundaries of ANC 2F in cooperation with the ANC.
 - viii. Off-site housing elsewhere by way of the commitment of \$3,000,000 to enable the construction of 190 dormitory-type units and 20 efficiency type units as part of the Salvation Army PUD at 1850 New York Avenue, N.E.
- f. The Comprehensive Plan Generalized Land Use Map designates the square in which the subject property is located in the mixed-use high density commercial and high density residential categories. The Zoning Commission has previously determined that the mix of uses in the

square is to be distributed with residential uses along the Massachusetts Avenue frontage and commercial uses along the 14th and L Street frontages.

- g. The subject property continues to be appropriate for commercial uses in accordance with the Comprehensive Plan.
 - h. The subject property is included within the Franklin Square sub-area of Downtown, as set forth in the Downtown element of the Comprehensive Plan. The Franklin Square sub-area is determined to be the new prestige office area within Downtown.
 - i. The application responds positively to the mixed use designation in the Comprehensive Plan by providing off-site housing both nearby and away from the subject site.
 - j. The support of the Salvation Army project responds positively to and is not inconsistent with policies in both the Housing element and the Human Services element of the Comprehensive Plan.
23. In response to questions raised by the Zoning Commission regarding the compliance of applicant's modification proposal with Blagden Alley Association v. The District of Columbia Zoning Commission, 590 A.2d 139 (1991), an attorney from the Office of the Corporation Counsel indicated that Blagden Alley allows off-site amenities, but that the Court of Appeals will remand such a case to the Zoning Commission in the event that the record of the case is insufficient to provide the clear factual and legal basis for such offsite amenities for PUD approval. In addition, the attorney noted that the Zoning Commission was advised in Blagden Alley to establish PUD regulations for offsite amenities. However, the attorney noted concurrence with applicant's position that the absence of such regulations did not prohibit the Zoning Commission from proceeding so long as its final decision complied with the Blagden Alley evidentiary and record requirements and contained a clear, principled legal basis for its decision.
24. The Office of Planning (OP), by memorandum dated June 10, 1994, and by testimony at the public hearing, recommended that the application be approved. Although OP reported that the proposal would not result in housing Downtown, because the linkage opportunity that existed previously is no longer available, the project would respond to the District's goal of providing adequate and affordable

housing for all District residents, benefiting both the New York Avenue corridor and the city in general. OP also noted that the project also furthers one of the goals of the Comprehensive Plan to provide housing for low and moderate income persons within the District of Columbia.

25. Evidence was introduced that the Director of the Department of Housing and Community Development, by memorandum dated March 14, 1994, recommended that the Zoning Commission move expeditiously to consider and approve the proposed modification to the PUD, to allow both the immediate area and the city at large to benefit. The memorandum noted that the District government viewed the assignment of funds to the Salvation Army project at 1850 New York Avenue, N.E., as an appropriate use of funds for the following reasons:
- a. The funds represent a higher portion of project costs than could ever be likely for a Downtown project and, accordingly, there is a much greater likelihood, given current lending and financing criteria, that the Salvation Army PUD will proceed.
 - b. There is little likelihood that the \$3,062,000 can be used to achieve housing in or near Downtown at anytime in the foreseeable future.
 - c. The District is focusing on the New York Avenue corridor, an area in need of positive change, and the beginning of construction of a new project in this area will be an important signal that an improvement is on the way.
 - d. The Salvation Army project will provide housing for a segment of the population whose needs are currently not being met.
 - e. The District government will realize substantial cost savings, because housing for more than 200 people will be provided by the private sector, without draining scarce government resources, at a savings estimated to be \$1,825,000 annually, with a capitalized value of \$22,800,000.
 - f. The applicant will also invest \$500,000 in housing in ANC 2F, the area within which the site is located. The memorandum concluded that this type of program may qualify the District for certain Federal grants.

26. Evidence was introduced from the Department of Human Services, by memorandum dated June 27, 1994, which supported the Salvation Army project and the proposed contribution of \$3,000,000, which will be given to the Salvation Army as a result of the modification to the PUD. The Department noted that the program is extremely important to the Department and the city, and any action which could be taken to help construction commence sooner rather than later would be of great help in meeting the housing and social service needs of the District of Columbia.
27. Advisory Neighborhood Commission 2F, by letter dated January 7, 1994, and by testimony at the public hearing, supported the request to modify the PUD. The ANC noted that it had carefully considered the existing Zoning Regulations and Map. The commitment of \$3,000,000 to the Salvation Army project responds directly and immediately to the city's overall needs to provide affordable housing and shelter to a class of residents not currently being accommo-dated elsewhere. The ANC noted that the Peabody site was not within the boundaries of ANC 2F nor south of Massachusetts Avenue. The ANC supported the proposal on the basis that the contribution to the Salvation Army appears to be the most expeditious and best way to provide a substantial off-site housing amenity for the 1331 L Street project. The ANC also accepted as reasonable, the applicant's proposal to invest \$500,000 for housing in ANC 2F in coordination with the ANC in accordance with the specific language included as part of the PUD modification. The ANC and applicant agreed to a condition for the PUD modification concerning the timing and method of the housing expenditure and the form for certifying to the District that the funds had been spent for residential housing.
28. A letter from the District of Columbia Councilmember representing Ward 2, within which the subject property is located, dated April 6, 1994, was introduced which supported approval of the application.
29. A letter from the District of Columbia Councilmember representing Ward 5, dated May 16, 1994, in which the Salvation Army site is located was introduced as evidence and supported the Salvation Army project as an appropriate recipient of the \$3,000,000 for the production of housing. The letter mentioned that the timing of the proposal and the linkage of the PUD projects is appropriate given the severe financial

constraints on the District and the need to provide housing services to all segments of the population. The Councilmember noted that the proposal will result in substantial savings to the District through the private sector providing the service and that the provision of housing is one of the important issues and elements of the Comprehensive Plan.

30. The Thomas House Retirement Community administration, operator of the Thomas House located at 1330 Massachusetts Avenue, N.W., by letter dated June 7, 1994 and introduced into evidence, did not object to the proposed modification to the PUD. In its letter, the Thomas House administration encouraged the Zoning Commission to tie the applicant's receipt of the building permit for the project at 1331 L Street to the closing of the construction loan for the housing on the Salvation Army property.
31. Two residents of the neighborhood testified in support of the application concerning the contribution which will be made to housing within the ANC and the affordable housing to be provided at the Salvation Army site at 1850 New York Avenue, N.E.
32. The application was opposed by the Thomas House Residents' Council, which was admitted by the Commission as a party in opposition to the case. The Residents' Council represents the occupants of the Thomas House building located at 1330 Massachusetts Avenue, N.W., in the same square as the subject application. By written statement dated June 27, 1994 which was introduced into evidence and by its testimony at the hearing, the Residents' Council opposed the proposed modification for the following reasons:
 - a. The 110-foot office building will cast a large shadow over the Thomas House building and the chief outdoor recreational area which is to the rear of the building. (correcting another letter from the Residents' Council which erroneously alleged that the building was to be 120 feet in height.
 - b. The residents desire more residential development in the area, to help make the streets safer, and they support additional shopping and other residential-serving amenities.
 - c. The amenities which are included as part of the PUD should benefit those affected by the project rather

than being located in some other area in the city. They preferred that the \$3 million be spent on Square 247 or at least in the Massachusetts Avenue area to help create a larger residential community in the area.

- d. The proposed transfer of the residential requirements to another quadrant of the city provides no benefits to the neighborhood, is a clear violation of the Downtown Development (DD) District regulations and undermines the housing requirements of the DD District.

33. Two additional persons, one on behalf of the Committee of 100 on the Federal City, appeared at the hearing in opposition to the application. Their testimony in opposition raised the following additional points:

- a. Approval of the modification would constitute an action inconsistent with the Comprehensive Plan, which the Zoning Commission is prohibited from taking. Since the Generalized Land Use Map calls for the site to be mixed use and no housing is provided on site, the residential corridor along Massachusetts Avenue is not protected.
- b. Because the Zoning Commission has not yet passed PUD regulations concerning offsite amenities as suggested in the Blagden Alley case, the modification is inappropriate under Blagden Alley.
- c. The proposed modification does not meet the standards set forth in Section 2400.7 of the Zoning Regulations concerning conflicts with the development plans and policies of the District of Columbia, enhancement of the neighborhood and superior working environment and amenities for present or future occupants of planned unit developments.
- d. The proposed modification violates the provisions of the Downtown Development District (DD) for residential housing requirements, off-site or transferable.
- e. The modification should provide that 50 percent of the normal housing requirement for the site be sent to sites somewhere outside of the DD District and the other 50 percent should be provided south of Massachusetts Avenue.

- f. The applicant should have found another location in or near the Downtown area for development of housing for low or moderate income families consistent with the original purpose of approving the contribution of funds to the project at 5th and I Streets, N.W.

34. On August 1, 1994 at its regular monthly meeting, the Zoning Commission considered all post-hearing, submissions, the OP summary abstract, and a letter from ANC 2F with recommendations on the implementation and timing of the proposal. The Commission also reviewed and evaluated the various testimony and statements made by the applicant and those in opposition to the application. The Commission expressed concern about the appropriateness of substituting the Salvation Army PUD for the Peabody PUD for the receipt of funds. Additionally the Commission was concerned about whether the receipt of cash in lieu of housing units in the downtown would send a wrong signal to developers with respect to the need for downtown housing and may thus defeat the purpose of getting housing in the downtown.

35. Based upon the oral and written factual evidence introduced by the parties and persons in opposition, the Commission makes the following factual findings:

- a. The subject office building is separated from the Thomas House by a 30-foot public alley and two intervening properties. The shadow studies prepared as part of the original proceeding, which are part of the record and which were displayed at the hearing on the modification, demonstrate that the 110-foot office building will not cast objectionable shadows on the Thomas House building or its outdoor recreational area;
- b. The approved PUD contained no residential units on the site. The proposed modification therefore does not change the number of residents which might be on the street in the vicinity of Thomas House or which would support neighborhood shopping;
- c. The office building project has no significant adverse impact on the neighborhood, in terms of height, bulk, traffic or other conditions. The PUD as proposed to be modified includes amenities and features which would benefit the site, the immediate neighborhood and the city at large;

- d. The Downtown Development District did not and does not apply to this site. Under the PUD, the site is zoned C-4. Prior to the approval of the PUD, the site was zoned HR/SP-2. The Zoning Commission was aware of the pendency of the DD regulations when it set this case for hearing and voted upon the application. The Commission took proposed action to approve this case on the same day it took final action to adopt the DD District. The Commission's approval of the PUD was not conditioned on the DD District minimum on-site housing requirement for new development;
- e. The application is not inconsistent with the Comprehensive Plan. Although the position of the parties in opposition on this matter is arguable, the Commission credits the testimony and analysis of the applicant's planning expert and the Office of Planning that the Comprehensive Plan does not require residential uses on each lot and that the part of this square along L Street is more desirable and appropriate for commercial uses than residential uses. The residential corridor along Massachusetts Avenue is protected by the zoning categories applied in the square. The shadow studies demonstrate that this particular building will not cause difficulties to residential uses on Massachusetts Avenue;
- f. The Commission believes that the decision of the D.C. Court of Appeals in Blagden Alley, 590 A.2d 139 (D.C. App. 1991), specifically confirms its authority to approve an off-site amenity under the existing regulations. The legal standards are presented in our interpretation of the current PUD regulations and the Comprehensive Plan requirements. The Commission further finds that the evidentiary record of this case demonstrates clearly the standards and facts upon which its approval is based. In weighing the evidence, the Commission finds that the site is not an appropriate residential site, that no on-site housing was originally required for this site, that the application includes a mix of on-site and off-site amenities, that both the project area and the city at large will benefit and that the off-site provision of housing in both ANC 2F and elsewhere in the District is an appropriate response to the mixed-use designation on the Generalized Land Use Map. More-over, our findings lead us to the

conclusion that the off-site amenities are consistent with our interpretation of the Zoning and PUD Regulations and the Comprehensive Plan.;

- g. The proposed modification meets the standards of Subsection 2400.7 of the Zoning Regulations. As noted elsewhere in this order, this PUD project in this area on this site, as the project is to be modified, does not conflict with the development plans and policies of the city, it enhances the neighborhood and provides a superior environment and amenities as specifically set forth in previous findings herein;
- h. There are no other identifiable and available residential projects in or immediately adjacent to the Downtown area to which the available financial resources could be directed which have a reasonable chance of proceeding. The contribution to the Salvation Army project will achieve housing for a class of residents who are clearly underserved; and the benefits, both fiscal and societal, which will be achieved are comparable or better than those which would have been gained were the original off-site housing project still viable. The investment in housing within the boundaries of ANC 2F will provide a nearby residential amenity which was not previously a part of the PUD; and
- i. The Commission is satisfied with the applicant's record response to the Commission's concern about the implementation, timing and payment regarding the off-site housing for the Salvation Army to insure that the 1850 New York Avenue project will proceed.

36. The Commission notes that this is not an entirely new project, but a modification to a previously approved PUD. The substitution of the Salvation Army PUD for the Peabody PUD for the receipt of funds is to facilitate the development of the previously approved PUD. The Commission also took note of the agreement between the ANC 2F and the applicant about the expenditure of \$500,000 within the ANC's boundaries within three years, and concurs with the timing of the disbursement of the funds.

37. After careful review and consideration of the position of the parties and of the advice of the Office of the Corporation Counsel on the Blagden Alley case, the

Commission determined that approval of this modification application and its housing linkage to the Salvation Army site and ANC agreement would not defeat the Commission's original intention of encouraging housing in the downtown through the PUD process. The Commission also specifically restricted its decision to the facts and record of this case, especially the unique ability of this project to comply with the Commission's interpretation of the PUD regulations and Comprehensive Plan, and noted that until the Commission passed final off-site PUD regulations, its decisions on off-site PUD amenities would be made on a case-by-case basis, without reliance on this case for any binding precedential value for its future decisions. The Commission also made clear the importance in its decision of the fact that the original PUD application had been approved before the DD off-site housing linkage system was adopted. The Commission added that its decision herein should not be construed as its approval or endorsement of a policy of cash in lieu of downtown housing production, and took proposed action to approve the modification with conditions.

38. The proposed action of the Zoning Commission to modify the approved PUD was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC by report dated October 27, 1994, indicated that the modification would not adversely affect the Federal Establishment or other Federal interests in the National Capital.

CONCLUSIONS OF LAW

1. The current planned unit development process and regulations and the Comprehensive Plan serve as appropriate guidelines for and means of controlling development of the subject site and in assessing off-site amenities until the zoning regulations are amended with off-site amenity provisions.
2. The PUD, as modified, carries out the purposes of 11 DCMR 2400 to encourage the development of well-planned, residential, institutional, commercial and mixed-use developments, which will offer a variety of building types with more attractive and more efficient overall planning and design not achievable under a matter of right development.
3. The development of this PUD, as modified, is compatible with city-wide goals, plans and programs and is sensitive to environmental protection and energy conservation.

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4. The approval of this application is not inconsistent with the Comprehensive Plan for the National Capital, the purposes of the Zoning Act and the criteria for planned unit developments set forth in Chapter 24, of the Zoning Regulations.
5. The application shall be approved with conditions which ensure that the development will not have an adverse effect on the surrounding community, will assure appropriate off-site housing amenities and will enhance the District of Columbia.
6. The approval of this application will promote orderly development in conformity with the entirety of the District of Columbia zone plan as embodied in the text of the Zoning Regulations and the Zoning Map.
7. The Zoning Commission has accorded to ANC 2F the "great weight" to which it is entitled by statute.
8. This application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the findings of fact and conclusions of law set forth in this order, the Zoning Commission for the District of Columbia hereby orders **APPROVAL** of the application for a modification of the approved PUD for Lot 96 in Square 247 at 1331 L Street, N.W., with the guidelines, conditions and standards set forth in Z.C. Order No. 684 modified as follows:

1. Condition No. 6(a) is revised to read as follows:

Housing: Funds in the amount of \$3,000,000 to enable the construction of housing and other facilities for 200 men and women as part of the Salvation Army planned unit development (PUD) at 1850 New York Avenue, N.E. The applicant shall provide the \$3,000,000 amount to the Salvation Army, the owner of housing and other facilities that are being constructed at 1850 New York Avenue, N.E. (Zoning Commission Order No. 744).

2. Create a New Condition No. 11 to read as follows:

Within sixty (60) days of the issuance of a final order of the Zoning Commission granting the modification request, the applicant shall make the payment of funds in the specified amount to the Salvation Army for use in constructing the 1850 New York Avenue, N.E. project. No later than thirty (30) days after receipt of such funds from the applicant, the Salvation Army shall file an application for a building permit to construct the project at 1850 New York Avenue, N.E.

3. Existing Condition 11 is renumbered as Condition No. 12 and revised to read as follows:

The applicant shall receive a building permit when an opinion letter is presented to the Zoning Administrator, with a copy to the Zoning Commission, that the funds discussed in this Order have been disbursed to the Salvation Army for the residential purposes stated herein and according to its agreement with the Salvation Army.

4. Create a New Condition No. 13 to read as follows:

The applicant agrees to work with Advisory Neighborhood Commission (ANC) 2F, through its specifically designated subcommittee, to identify and develop mutually agreeable sites for the expenditure of \$500,000 for a number of housing units for residential occupancy within the boundaries of ANC 2F. Applicant will seek the approval of ANC 2F regarding residential properties for which expenditures shall be made.

5. Create a New Condition No. 14 to read as follows:

The applicant shall expend the \$500,000 for housing referred to in Condition No. 13 within three years of the final date of this order.

6. The applicant shall provide certification to the Zoning Commission of the expenditure of funds in the form designated as part of Exhibit No. 42 of the record, and shall report to the Commission the status of the agreements between the applicant and ANC 2F, and the applicant and the Salvation Army.
7. The applicant shall certify to the Zoning Administrator (ZA) that the \$3,000,000 has been disbursed to the Salvation Army prior to the issuance of the building permit for the PUD project at 1331 L Street, N.W.
8. Original Condition Nos. 12 through 16 shall be renumbered as Condition Nos. 15 through 19.
9. All of the other guidelines, conditions and standards in Z.C. Order No. 684 shall remain as originally adopted.


Vote of the Zoning Commission taken at the public meeting on August 1, 1994: 4-1 (Jerrily R. Kress, William B. Johnson, William L. Ensign and Maybelle Taylor Bennett to approve - John G. Parsons, opposed).

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This order was adopted by the Zoning Commission at its public meeting on November 14, 1994, by a vote of 4-1 (William B. Johnson, William L. Ensign, and Maybelle Taylor Bennett, to approve; Jerrily R. Kress to approve by absentee vote - John G. Parsons, opposed by absentee vote).

In accordance with provisions of 11 DCMR 3028, this Order shall become final and effective upon publication in the D.C. Register; that is, on DEC 30 1994.


MAYBELLE TAYLOR BENNETT
Chairperson
D.C. Zoning Commission


MADELIENE H. ROBINSON
Director
Office of Zoning

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